

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMEY MCKEE,

Plaintiff,

v.

M. GROTH, *et al.*,

Defendants.

No. 4:23-CV-00181

(Chief Judge Brann)

ORDER

AND NOW, this 10th day of January 2024, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendants' motion (Doc. 14) for partial dismissal pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED**.
2. Plaintiff's First Amendment retaliation claims are **DISMISSED** against defendants Groth and Lytle for failure to state a claim upon which relief may be granted.
3. Plaintiff's Eighth Amendment excessive force claims are **DISMISSED** against all Defendants for failure to state a claim upon which relief may be granted.
4. Plaintiff's official capacity claims are **DISMISSED** against all Defendants for failure to state a claim upon which relief may be granted and for seeking monetary relief against a defendant who is immune from such relief.
5. This case shall proceed on Plaintiff's Section 1983 claim alleging First Amendment retaliation against defendants McCusker and Anna in their individual capacities only.

6. The Clerk of Court is directed to terminate defendants Groth and Lytle.
7. Defendants McCusker and Anna shall file an appropriate responsive pleading pursuant to the Federal Rules of Civil Procedure.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge